

# Wisconsin's Runoff Rules

A Summary Prepared by the Wisconsin Department of Natural Resources  
Runoff Management Section



November 2002

## For more information about:

<i>NR 120</i>	<i>Page 5</i>
<i>NR 151</i>	<i>Page 2</i>
<i>NR 152</i>	<i>Page 2</i>
<i>NR 153</i>	<i>Page 7</i>
<i>NR 154</i>	<i>Page 3</i>
<i>NR 155</i>	<i>Page 7</i>
<i>NR 216</i>	<i>Page 3</i>
<i>NR 243</i>	<i>Page 3</i>

## A General Overview of Wisconsin's Nonpoint Source Administrative Rules

Administrative rules to address the control of polluted runoff from urban and rural land use activities went into effect Oct. 1, 2002. The 8 rules written by the Wisconsin Department of Natural Resources (DNR) along with one rule promulgated by the Wisconsin Department of Agriculture, Trade, and Consumer

Protection (DATCP) are in response to 1997 Wisconsin Act 27 and 1999 Wisconsin Act 9. These laws required changes to the DNR's nonpoint source water pollution abatement program and to the DATCP soil and water resources management program. The DNR rules described here, along with DATCP's

rule ATCP 50, are the products of a multi-year effort involving a diverse advisory committee, state agencies and their local and federal partners, and other citizens who participated in the 23 informational meetings and 34 public hearings conducted around the state between 1998 and 2001.

## Rules at a Glance



- Priority Watershed and Priority Lake Program (NR 120)
- Runoff Management (Performance Standards and Prohibitions) (NR 151)
- Model Ordinances for Construction Site Erosion Control and Post-Construction Storm Water Management (NR 152)
- Targeted Runoff Management Grant Program (NR 153)
- Best Management Practices and Cost-Share Conditions (NR 154)
- Urban Nonpoint Source Water Pollution Abatement and Storm Water Management Grant Program (NR 155)
- Storm Water Discharge Permits (NR 216)
- Animal Feeding Operations (NR 243)
- Soil and Water Resource Management Program (ATCP 50)

## NR 151: Runoff Management (Performance Standards and Prohibitions)

NR 151 establishes polluted runoff performance standards for non-agricultural practices, including transportation, and performance standards and prohibitions for agricultural facilities and practices. These standards are intended to be minimum standards of performance necessary to achieve water quality standards. Agricultural performance standards and prohibitions for existing facilities and practices cannot be required unless at least 70 percent cost sharing is made available to bring the land into compliance. New facilities and

practices, and existing facilities and practices that are already in compliance with the performance standards, must achieve and

*Agricultural and non-agricultural performance standards — including transportation facility performance standards — are a part of this rule.*

maintain compliance without cost-share assistance. Compliance with non-agricultural and transportation performance standards is required regardless of whether cost-sharing

is made available. The chapter also specifies a process for the development and dissemination of department technical standards to implement the non-agricultural performance standards. In some areas of the state, where the performance standards may not achieve the desired water quality, the chapter includes a process to establish, by rule, more site specific targeted performance standards. The chapter also establishes implementation and enforcement provisions for the performance standards and prohibitions.

Continued on Page 4

## NR 152: Model Ordinances for Construction Site Erosion Control and Storm Water Management

---

*Wisconsin expects to adopt its version of the Phase II Storm Water Rules by the fall of 2003. Phase II will require about 200 municipalities to adopt erosion control and storm water management ordinances.*

---

The purpose of NR 152 is to bring about voluntary uniformity of regulations that affect municipalities.

The rule contains, as appendices, model ordinances for both storm water management and for construction erosion control sites exclusive of building construction, which is regulated by the Wisconsin Department of Commerce. The performance standards included in the model ordinances are taken from NR 151.

Adoption of the ordinances by local units of government is voluntary. But the ordinances may assist communities wanting to







meet anticipated requirements of "authorized local programs," which are expected to be a part of Wisconsin's implementation of the U.S. Environmental Protection Agency's Phase II storm water rules.



## NR 243: Animal Feeding Operations

NR 243, as recreated, adds the agricultural performance standards and prohibitions (NR 151) to the requirements for WPDES-permitted animal feeding operations (those with 1,000 animal units or more), requires farms to apply **12 months** prior to reaching 1,000 animal units and revises the criteria for DNR issuance of a Notice of Discharge (NOD) or a permit to operations with fewer than 1,000 animal units that discharge significant amount of pollutants to state waters.



Animal Type		Number = 1,000 AU (Approximation)
Milking and Dry Cows		710
Heifers (800-1,200 lbs.)		910
Heifers (400-800 lbs.)		1,670
Calves (up to 400 lbs.)		5,000
Beef Steers/Cows (600 lbs. to market)		1,000
Pigs (55 lbs. to market)		2,500
Pigs (up to 55 lbs.)		10,000
Turkeys		55,000
Layers		100,000
Broilers		200,000

For questions about animal unit equivalencies or other rule provisions contact your DNR's regional agricultural specialist.

## NR 154: Best Management Practices, Cost-Share Conditions

NR 154 contains the Best Management Practices (BMPs), technical standards and cost-share conditions applicable to cost sharing for Targeted Runoff Management and Urban Nonpoint Source Grants. NR 154 contains a total of 40 technical standards. Of these, 27 are cross-referenced to ATCP 50

with no exceptions, and 10 are cross-referenced to ATCP 50 with exceptions. A total of 3

*For more information on BMPs eligible for cost sharing, contact your regional DNR office.*

non-agricultural standards that are not referenced in ATCP 50 are included in this rule in their entirety.

### Some BMPs included in NR 154

- Manure storage systems
- Livestock fencing, water facilities, and access roads/cattle crossings
- Riparian buffers
- Roofs and roof runoff systems
- Sediment basins and underground outlets
- Shoreland habitat restoration for developed areas
- Wetland development/restoration

## NR 216: Storm Water Discharge Permits

NR 216 establishes the criteria and procedures for issuance of storm water discharge permits to certain construction sites, industrial facilities, and municipalities, to limit the discharge of pollutants carried by storm water runoff into waters of the state. NR 216 was primarily revised to incorporate

**This rule is a revision of a previous rule.**

the non-agricultural performance standards in NR 151. Components of construction and municipal storm water discharge permits (including storm water

management programs, pollutant loading assessments, storm water pollution prevention plans, construction erosion control plans, and storm water management plans) must meet the non-agricultural performance standards. Additional changes were made to this rule to clarify the requirements.

NR 151 (from Page 2)

## NR 151 Subchapter II Contains the Agricultural Performance Standards and Prohibitions

### Agricultural Performance Standards and Prohibitions

Subchapter II of NR 151, the agricultural performance standards and prohibitions, are intended to protect water quality by minimizing the amount of soil erosion, nutrients from manure and croplands, and other nonpoint source pollutants that enter waterways.

#### *Sheet, Rill, and Wind Erosion*

All cropped fields must meet the tolerable (T) soil erosion rate established for that soil.

#### *Manure Storage Facilities*

All new, substantially altered, or abandoned manure storage facilities must be constructed, maintained, or abandoned in accordance with accepted standards. Existing facilities that are failing or leaking and that pose an imminent threat to public health, fish and aquatic life or groundwater must be up-graded, replaced, or properly abandoned.

#### *Clean Water Diversions*

Runoff must be diverted away from contacting feedlots, manure storage areas, and barnyards located in water quality management areas or areas up-gradient of private wells. Water quality management areas are those areas that are 300 feet from a stream, 1,000 feet from a lake, or are susceptible to groundwater contamination.

#### *Nutrient Management*

Agricultural operations applying nutrients to agricultural fields must do so according to a nutrient management plan.

### *Manure Management Prohibitions*

The prohibitions include the following.

- No overflow of manure storage facilities.
- No unconfined manure piles in a water quality management area.
- No direct runoff from feedlots or stored manure into state waters.
- No unlimited livestock access to waters of the state in locations where high concentrations of animals prevent the maintenance of adequate or self-sustaining sod cover.

Implementation and enforcement of the agricultural performance standards and prohibitions are intended to be carried out



according to a strategy that will be developed by the DNR, local governments, DATCP, and other state agencies. County land conservation departments will play a key role in helping landowners meet these new requirements. In situations where the county is unwilling or unable to work with a landowner to achieve compliance, the state will use its authority to enforce the standards. The state will continue its primary role of working with landowners

to achieve compliance at WPDES-permitted livestock operations.

Continued on Page 5

## **ATCP 50 Addresses Conservation Practices**

ATCP 50 is the Wisconsin Department of Agriculture, Trade, and Consumer Protection's companion rule to the DNR's runoff rules. The rule implements the state's soil and water resource



management program, as authorized by Section 92.14 of Wisconsin Statutes. NR 151 sets the performance standards to control farm and other runoff, while ATCP 50 provides tools to help meet new state standards. ATCP 50 establishes standards for nutrient management plans, DATCP approval of county land and water resource management (LWRM) plans, allocation of DATCP funds for county implementation of LWRM plans, use of DATCP funds to pay for county staff and landowner cost-sharing, local regulation including cost-sharing requirements to enforce performance standards, and practices cost-shared by DATCP and DNR.

**For more information on this rule, visit DATCP's Web site:**

**[http://datcp.state.wi.us/arm/regulation/prop-rules/atcp\\_50.html](http://datcp.state.wi.us/arm/regulation/prop-rules/atcp_50.html)**

**Or contact DATCP's Bureau of Land and Water Resources at 608.224-4620 or 608.224-4622.**



## NR 151 (from Page 5)

## NR 151 Subchapter III Contains Non-Agricultural Standards

### Non-Agricultural Performance Standards

Subchapter III of NR 151 details the non-agricultural performance standards and outlines the non-agricultural technical standards process.

### Construction Sites in New Development and Redevelopment

Construction on sites of 5 acres or more (1 acre or more after March 10, 2003) will need to control 80 percent of the sediment load coming off the sites.

### Post-Construction in New Development and Redevelopment

Storm water management plans that meet the performance standards listed below are

required to be implemented on those construction sites of 1 acre or more after October 1, 2004 that were subject to the construction performance standard. The post-construction performance standards become effective 2 years after the effective date of NR 151. During this 2-year period, DNR will develop technical standards to support the performance standards. Development projects constructed after the 2-year period must install the practices identified in the storm water management plan during or immediately after construction. This set of performance standards will be implemented through storm water construction permits issued by the DNR under NR 216. Required performance standards include the following.

**Total Suspended Solids:** 80 percent of the total suspended solids that would normally run off the site needs to be controlled. The reduction goal for redevelopment is 40 percent. For infill development under 5 acres that occurs within 10 years, the reduction goal is 40 percent. All other in-fill development has a reduction goal of 80 percent.

**Peak Discharge Rate:** The peak runoff discharge rate for the 2-year, 24-hour design storm must be maintained or reduced.

**Infiltration:** A portion of the volume of water running off the site must be infiltrated. For residential land uses, that portion is either 90 percent of the pre-development infiltration volume or 25 percent of the post-development runoff from the 2-year, 24-hour storm. No more than 1 percent of the site

Continued on Page 6



## NR 120: Priority Watershed and Lake Program

NR 120 is the rule under which the DNR administers the Nonpoint Source Water Pollution Abatement Program. This *recreated* rule contains changes in 3 main areas, including scope of the rule, cost-share administration, and critical sites administration.

The process to select, plan, and implement priority watershed and lake projects to reduce nonpoint source pollution in

both urban and rural areas has been eliminated (pursuant to a change in state law). The recreated NR 120 includes a mandatory component in which critical nonpoint source pollution sites must be addressed, and the procedures to administer the grants for cost-sharing Best Management Practices and for technical and other assistance.

Continued on Page 8



## NR 151 (from Page 5)

***...The runoff rules and performance standards address the Number 1 cause of water pollution in Wisconsin and the nation....***

would have to be dedicated to meeting infiltration requirements.

For non-residential land uses (commercial, industrial, institutional), the portion to be infiltrated is 60 percent of the pre-development infiltration or 10 percent of the post-development runoff from the 2-year, 24-hour storm. For these sites, the cap is set at 2 percent. The rule identifies situations where infiltration is optional and others where it is prohibited in order to protect ground water.

**Protective Area.** Permanent vegetative buffer areas must be maintained around lakes, streams, and wetlands to filter pollutants and protect against erosion. Buffer sizes range from 50-75 feet for most resources, varying according the type and classification of the waterbody.

**Fueling and Maintenance Areas.** Petroleum product runoff from fueling and vehicle

maintenance areas must be controlled to remove all visible sheen.

### **Developed Urban Area Performance Standards**

These performance standards apply to incorporated cities, villages and towns with a population density of 1,000 or more per square mile. By March



10, 2008, local governments, regardless of whether or not they are subject to municipal storm water permits, will be responsible for implementing storm water management plans that include the following.

- Public education on the proper management of leaves and grass clippings, lawn and garden fertilizers, and pet

wastes, and the prevention of oil and chemicals disposal into storm sewers.

- A program for proper management of leaves and grass clippings, including public information about the program.
- Application of nutrients on municipally owned property in accordance with a nutrient application schedule.
- Detection and elimination of illicit discharges.

Municipalities subject to a storm water permit under NR 216, must also reduce total suspended solids within the municipal boundary by 20 percent. By March 10, 2013, these municipalities will be required to reduce total suspended solids by 40 percent.

### **Non-Municipal Property Fertilizer Performance Standard**

By March 10, 2008 owners of properties that apply fertilizer to more than 5 acres of pervious surface (such as lawns or turf) must do so according to an application schedule based on soil tests.

## **NR 151 Subchapter IV Contains Transportation Performance Standards**

Transportation facilities (roads and associated structures) are subject to the non-agricultural performance standards. Some specific modifications are made in recognition of the unique character of transportation facilities:

- Exemption from post-construction performance standards for highway

resurfacing, reconditioning or minor re-construction.

- Option to use a water quality designed swale to meet the post-construction performance standard.



- The requirement for total suspended solids control of 20 percent by 2008 and 40 percent by 2013 for highways within municipalities permitted under Subchapter I of NR 216.

The requirement for education of DOT maintenance staff on prevention of runoff pollution.

# 2 Grant Programs Offer Financial Support to Achieve Water Quality Goals and Check Runoff

## NR 153: Targeted Runoff Management (TRM) Grant Program

NR 153 contains the policy and procedures for administering the Targeted Runoff Management (TRM) Grant Program. The DNR may award TRM grants to governmental units and state agencies (including itself) to reduce both agricultural and urban nonpoint source pollution. Grants to a governmental unit may be used to cost share the installation of Best Management Practices, as well as to support a variety of local administrative and planning functions.

A governmental unit may use grant funding to control pollution sources on land it owns or operates, but most frequently, the funds will be forwarded to

private landowners and operators through a cost-share agreement. If a state agency's project is located within a priority watershed or priority lake area, the DNR can award a TRM grant directly to the agency. If the agency's project is located outside of a priority watershed or priority lake area, the agency cannot apply directly to the DNR for a grant, but can receive cost-share funds through a local governmental unit that would submit an application on its behalf.

As required by statute, the DNR selects projects for funding by using the competitive scoring system set forth in the rule. The DNR will score and select

projects annually with advice from the Wisconsin Land and Water Conservation Board. Projects can run up to 3 years in duration unless the DNR grants an extension (limited to 1 year).

Projects must be consistent with county land and water resources management plans prepared under ATCP 50, as well as DNR priorities established on a geographic basis. Projects are not limited to implementation of state nonpoint source performance

### Generally, cost-share rates are:

- 70% of eligible construction costs.
- 70% for rural easements.
- 50% for urban easements.
- 50% for all property acquisitions.

standards contained in NR 151, but it is expected that many projects will focus on compliance with these standards.

Projects may be located anywhere in the state, including areas within and outside of existing priority watershed and priority lake projects.

As priority watershed projects are completed, the funding sources will be re-directed to projects selected under NR 153, making TRM grants the primary vehicle by which the DNR focuses limited financial and technical resources into areas where control of urban and rural nonpoint pollution sources is a high priority. Projects conducted under NR 153 will be shorter in duration, smaller in cost and scope, and distributed more widely across the state than priority watershed

## NR 155: Urban Nonpoint Source Water Pollution Abatement and Storm Water Management Grant Program

NR 155 contains policy and procedures for administering the Urban Nonpoint Source and Storm Water Management Grant Program. The DNR may award these grants to governmental units for practices to control both point and nonpoint sources of storm water runoff from existing urban areas, and to fund storm water management plans for developing urban areas and areas of urban redevelopment. Urban areas include commercial land use, industrial land use (excluding non-municipal industrial areas regulated under NR 216) or areas with a population density of at least 1,000 persons per square mile. In order to receive a construction grant, the governmental unit with jurisdiction over the project area must assure adequate implementation of a comprehensive storm water management program. Cost-share rates are generally 50 percent of eligible construction costs, 70 percent of eligible planning costs, and 50 percent for urban easements and property acquisitions.

Continued on Page 8



**For more information on Wisconsin's Runoff Rules, visit the Wisconsin Department of Natural Resources' Web site:**

**<http://www.dnr.state.wi.us/org/water/wm/nps/index.htm>**

The Wisconsin Department of Natural Resources provides equal opportunities to its employment programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write to the Equal Opportunity Office, U.S. Department of the Interior, Washington, DC, 20240.

This publication is available in alternative format (large print, Braille, audio tape, etc.) upon request. Please call (608)267-7694 for more information.

This project has been funded wholly or in part by the U.S. Environmental Protection Agency under an assistance agreement (BG97550702-1) to the Wisconsin Department of Natural Resources. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

**NR 155 (from Page 7)**

### ***NR 155: A Competitive Grant Program to Help Local Governments Reduce Runoff, Storm Water Problems***

The goal of the NR 155 grant program is to achieve water quality standards, minimize flooding, protect groundwater, coordinate urban nonpoint source management activities with the municipal storm water discharge permit program and implement the non-agricultural nonpoint source performance standards under chapter NR 151. Grants to a governmental unit may be used to cost share the installation of best management practices as well as to support a variety of local administrative and planning functions. The DNR may also make grants to the Board of Regents of the University of Wisconsin System to control urban storm water runoff from campuses in selected locations.

As required by statute, the DNR will select projects for funding by using the competitive scoring system set forth in the rule. Projects will be consistent with department priorities established on a watershed or other geographic basis. Projects can run up to 2 years in duration, with the DNR having the ability to extend the grant period by an additional year

**For more information about the NR 153 and NR 155 grant programs, contact Mary E. Wagner at (608)266-9260; e-mail: [Mary.Wagner@dnr.state.wi.us](mailto:Mary.Wagner@dnr.state.wi.us). Or you can visit the Web page at:**

**<http://www.dnr.state.wi.us/org/water/wm/nps/financial.htm>**

**NR 120 (from Page 5)**

### **Administrative, Housekeeping Changes Included in New Version of NR 120**

Changes in cost-share administration include an increase in the duration of priority watershed projects, changes in

cost-share

rates for several Best Management Practices,

modified criteria for determining economic hardship, and restrictions on cost-share reimbursements to rural grantees who exceed the DNR's established expenditure amounts. Changes in critical sites

administration include added flexibility in the notification schedule and an explicit requirement that grantees cover all critical sites needs provided that adequate cost sharing is made available by the DNR.

Provisions dealing with rural local assistance grants covered by the previous version of NR 120 are now included in ATCP 50, the Wisconsin Department of Agriculture, Trade, and Consumer Protection's companion runoff rule.

**All Priority Watershed and Priority Lake Program projects will be completed in calendar year 2009**